

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHYTO TECH CORP. d/b/a BLUE CALIFORNIA, and
CONAGEN INC.,

Plaintiffs,

v.

GIVAUDAN SA,

Defendant.

18-CV-06172

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

FILED 8-1-18

STIPULATION AND ORDER

WHEREAS, Phyto Tech Corp D/B/A Blue California ("Blue Cal") and Conagen Inc. filed this action against Givaudan SA ("Givaudan") on July 6, 2018;

WHEREAS, on or about April 23, 2018, Givaudan filed an action against Conagen in the United States District Court for the Southern District of New York, Case No. 1:18-cv-03588 ("*Givaudan v. Conagen*");

WHEREAS, on or about June 18, 2018, Givaudan and BGN Tech LLC ("BGN") filed an action against Blue Cal and Steven Chen in the Supreme Court of the State of New York, New York County, Index No. 653038/2018 ("*BGN v. Phyto Tech Corp.*");

WHEREAS, on or about June 18, 2018, BGN filed an action against Conagen and SweeGen, Inc. in the Superior Court of California, County of Orange, Case Number 30-2018-0099862-CU-BC-CJC ("*BGN v. Conagen*") (this action, *Givaudan v Conagen*, *BGN v Phyto Tech Corp*, and *BGN v Conagen*, collectively, the "Pending Actions"),

WHEREAS, disputes have arisen between the parties with respect to the disbursement of funds under the agreements governing BGN, a joint venture between its sole members Blue Cal and Givaudan;

WHEREAS, the Board of Directors of BGN are comprised only of representatives of both Blue Cal and Givaudan;

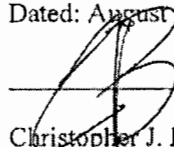
WHEREAS, the parties have met and conferred, and wish to proceed to mediation of the claims at issue in the Pending Actions;

NOW THEREFORE, THE PARTIES STIPULATE AS FOLLOWS:

1. Pending the disposition of the Pending Actions and all appeals therefrom, no payments, transfers or withdrawals of any kind, with the exception of monthly payments of \$2,500 for the provision of accounting services, shall be made from any account belonging to or in the name of BGN Tech LLC, including but not limited to East West Bank account numbers ending in 735 and 538 (the "BGN Bank Accounts"), except upon the unanimous written consent of the Board of Directors of BGN Tech LLC, or upon order of the Court.
2. Blue Cal's counsel shall serve an executed copy of this Stipulation and Order on all banks holding any BGN Bank Accounts within one (1) business day of execution by the parties.
3. Upon the Court's entry of this Stipulation and Order, Blue Cal's counsel shall serve a copy of the So Ordered Stipulation and Order on all banks holding any BGN Bank Accounts within one (1) business day of entry.

4. The Parties shall execute any additional documents required by any of the banks holding any BGN Bank Accounts that may be requested by the banks or necessary to administer or effectuate the terms and intent of this Stipulation and Order.

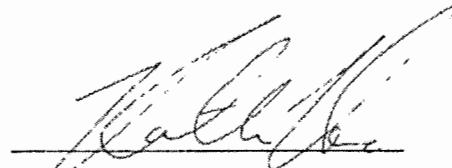
Dated: August 6, 2018



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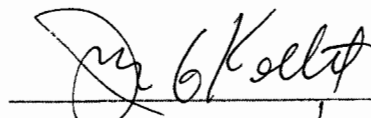


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*Attorneys for Phyto Tech Corp d/b/a Blue
California and Conagen Inc.*

SO ORDERED, this 7 day of August 2018.



The Honorable John G. Koeltz